

## INSPECTIONS AND APPEALS DEPARTMENT[481]

### Adopted and Filed

#### Rule making related to alcoholic beverage licensing

The Inspections and Appeals Department hereby amends Chapter 100, “General Provisions for Social and Charitable Gambling,” Chapter 103, “Bingo,” and Chapter 105, “Registered Amusement Devices,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 10A.104(10) and 99B.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2374.

#### *Purpose and Summary*

These amendments to Chapters 100, 103, and 105 are responsive to 2022 Iowa Acts, Senate File 2374. The legislation revised alcoholic beverage licensing, including references to alcoholic beverage license categories in Iowa Code chapter 99B. Thus, rules implementing Iowa Code chapter 99B require conforming updates. The amendments also eliminate unrelated redundancy, remove an outdated website reference, remove an outdated licensing example, update a citation to legislation to instead reference the codified Iowa Code section, and update a citation that led to a repealed Iowa Code section.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as ARC 6879C. No public comments were received. No changes from the Notice have been made.

#### *Adoption of Rule Making*

This rule making was adopted by the Department on March 15, 2023.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on May 10, 2023.

The following rule-making actions are adopted:

ITEM 1. Rescind the definition of “Responsible party” in rule **481—100.1(99B)**.

ITEM 2. Amend paragraph **100.4(3)“c”** as follows:

c. A license will not be issued if there is a current revocation of either a gambling or a liquor retail alcohol license for the location named on the license application.

ITEM 3. Amend subrule 100.4(5) as follows:

**100.4(5)** *Violations of gambling law or Iowa alcoholic beverage control Act.* Violation of gambling law or the Iowa alcoholic beverage control Act (Iowa Code chapter 123) affects whether a gambling license is issued.

a. No change.

b. No liquor retail alcohol license shall have been suspended within the last 12 months because of a conviction of or guilty plea to a criminal violation of the Iowa alcoholic beverage control Act (~~Iowa Code chapter 123~~).

c. No liquor retail alcohol license shall have been revoked because of a conviction of or guilty plea to a criminal violation of the Iowa alcoholic beverage control Act.

d. No change.

ITEM 4. Amend rule 481—100.6(99B) as follows:

**481—100.6(99B) Payment systems.** Licensees allowing participants to make payment by debit card, as authorized by Iowa Code section 99B.5, shall ensure that payment systems comply with all applicable federal and state laws regarding payment card processing and the protection of personal information. Licensees conducting amusement concessions at a fair and allowing participants to make payment by credit card, as authorized by ~~2018 Iowa Acts, House File 2417, section 1~~ Iowa Code section 99B.5(2), shall ensure that payment systems comply with all applicable federal and state laws regarding payment card processing and the protection of personal information.

ITEM 5. Amend subrule 103.2(4) as follows:

**103.2(4) Examples.** The following are examples of circumstances affecting whether a license is granted.

~~a. Qualified organization X applies for and is issued a two-year license to conduct bingo occasions at 313 Cherry Street, Des Moines, Iowa. The license is effective from August 1, 2017, to July 31, 2019. On October 1, 2017, qualified organization Y applies for a 14-day limited license to conduct bingo at the same location. The license is approved and issued because a limited license can be issued for the same location used for a two-year bingo license.~~

~~b. a.~~ Qualified organization ABC applies for and is issued a two-year qualified organization license to conduct bingo at 1002 West 2nd Avenue in Jones Town, Iowa. The license is effective from October 1, 2017, to September 30, 2019. On November 15, 2017, qualified organization EFG applies for a two-year qualified organization license for the same location. A license may be issued to organization EFG for the same location during the same period to conduct any games of chance, games of skill or raffles. Organization EFG shall not conduct bingo at the location.

~~c. b.~~ Hometown Community School applies for and is issued a two-year qualified organization license to conduct games of skill, games of chance and raffles at the grade school building. The license is effective from September 1, 2017, to August 31, 2019. During the time that the Hometown Community School license is in effect, the school-sponsored pep club applies for a 14-day limited license to conduct games of skill at the grade school building. The school-sponsored pep club may be issued a limited

license for the same location during the same time. Under this example, the school-sponsored pep club would not be required to obtain a separate license, because school-affiliated organizations may operate separate events under a school's two-year license.

ITEM 6. Amend rule 481—103.9(99B) as follows:

**481—103.9(99B) Location.** Bingo occasions may be conducted on premises either owned or leased by the qualified organization.

1. to 5. No change.

~~6. Alcoholic beverages may be served in a bingo location if that location possesses a beer permit or liquor license.~~

~~7.~~ 6. The lessor of the building shall not participate in conducting bingo.

~~8.~~ 7. During a bingo occasion, the lessor shall not sell any beverage, food or any other merchandise in the room in which bingo is played.

9. ~~8.~~ Only one licensed qualified organization may conduct bingo occasions within the same structure or building.

ITEM 7. Amend rule 481—105.2(99B), introductory paragraph, as follows:

**481—105.2(99B) Registered amusement device restrictions.** Each registered amusement device shall only be located on premises for which a Class “A,” Class “B,” Class “C,” special Class “C,” ~~or Class “D,”~~ liquor control license or a Class “B” or a Class “C” beer permit Class “E,” or Class “F” retail alcohol license has been issued pursuant to Iowa Code chapter 123.

ITEM 8. Amend subrules 105.2(2) and 105.2(3) as follows:

**105.2(2)** The department shall not initially register an electrical or mechanical amusement device that is required to be registered to an owner for a location for which only a Class “B” or a Class ~~“C” beer permit~~ “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 on or after April 28, 2004.

**105.2(3)** An owner or distributor at a location for which only a Class “B” or a Class ~~“C” beer permit~~ “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 shall not relocate an amusement device registered as provided in this chapter to a location other than the location of the device on April 28, 2004, and shall not transfer, assign, sell, or lease an amusement device as provided in this chapter to another person for which only a Class “B” or a Class ~~“C” beer permit~~ “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 after April 28, 2004.

EXAMPLE 1: An electrical or mechanical amusement device is registered with the department and is located at a convenience store that has a Class ~~“C” beer permit~~ “E” retail alcohol license.

1. If the amusement device needs to be repaired, the owner may repair it without losing the registration position or buying a new registration tag. A repair constitutes any changes to a device as long as the type of game and the number of devices in a location is not changed.

2. If the amusement device needs to be replaced because it is defective, it must be replaced with the same game in order to keep the registration position.

3. The amusement device cannot be moved from one location to another under a Class “B” or a Class ~~“C” beer permit~~ “E” retail alcohol license, even if the number of registered devices at a location does not change.

4. If a location with a Class “B” or a Class ~~“C” beer permit~~ “E” retail alcohol license had only one amusement device registered on April 28, 2004, the maximum number of devices allowed at that location shall be one.

ITEM 9. Amend subrule 105.2(5) as follows:

**105.2(5)** Each registered amusement device at a location for which only a Class “B” or a Class ~~“C” beer permit~~ “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 shall include on the amusement device a security mechanism which prevents a person from operating the amusement device by not allowing the acceptance of money until the machine is activated by the owner or owner's

designee. A sign shall be posted stating that a person must be 21 years of age or older to operate the registered amusement device.

EXAMPLE 2: A patron in a convenience store tries to put money in an amusement device, but the amusement device will not take the money. The patron approaches the person working behind the counter, who then asks the patron for an ID. If the patron is 21 years of age or older, the amusement device is activated, thereby allowing the patron to play the amusement device. The security mechanism shall be immediately reactivated once the patron has finished playing the amusement device.

ITEM 10. Amend subrule 105.2(9) as follows:

**105.2(9)** A person owning or leasing a registered amusement device shall not advertise or promote the availability of the amusement device to the public as anything other than an electrical ~~and~~ or mechanical amusement device. Situations that constitute advertising and promoting include, but are not limited to, posted signs, newspaper/magazine advertisements, radio and television advertisements, word of mouth and Internet posting.

ITEM 11. Amend paragraph **105.2(10)“b”** as follows:

*b.* A person may be added to the waiting list by ~~using the web-based amusement device registration system located at [dia.iowa.gov/gmms/](http://dia.iowa.gov/gmms/)~~ sending an email to [gmms@dia.iowa.gov](mailto:gmms@dia.iowa.gov).

ITEM 12. Amend subrule 105.2(11) as follows:

**105.2(11)** An initial amusement device registration shall only be allowed at a location that has a Class “A,” Class “B,” Class “C,” special Class “C,” ~~or Class “D<sub>1</sub>,”~~ liquor control or Class “F” retail alcohol license issued pursuant to Iowa Code chapter 123.

EXAMPLE 3: An amusement device is located in a bar that has the appropriate ~~liquor~~ retail alcohol license. On April 28, 2004, this location had only one amusement device. An additional amusement device may be added to this location.

1. If the amusement device needs to be repaired, it may be repaired without the loss of the device’s registration position.
2. If the amusement device is defective and needs to be replaced, it can be replaced with the same game under the original registration without the incurring of additional charges.
3. If the amusement device is replaced with a new amusement device that has a different game, before the device is moved to the premises, the process for initial registration shall be followed pursuant to this chapter and Iowa Code chapter 99B. The replacement of the amusement device creates an amusement device registration availability, and the position will be offered to the next person on the waiting list pursuant to this rule.

ITEM 13. Amend subrule 105.2(13) as follows:

**105.2(13)** An amusement device that is registered with the department and located in a warehouse may be placed in a location that has a Class “A,” Class “B,” Class “C,” special Class “C,” ~~or Class “D<sub>1</sub>,”~~ liquor or Class “F” retail alcohol license issued pursuant to Iowa Code chapter 123. Such a device may also be used as a replacement device.

ITEM 14. Amend subrule 105.6(4) as follows:

**105.6(4)** No more than four registered amusement devices shall be permitted or offered for use at any single premises.

*a.* A registered amusement device may be located on premises for which a ~~class “A,” class “B,”~~ class Class “C,” special class Class “C,” or class Class “D<sub>1</sub>,” ~~liquor control or Class “F” retail alcohol~~ license has been issued pursuant to Iowa Code chapter 123.

*b.* A registered amusement device may be located on the premises for which a ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123, but new registrations shall not be issued to devices to be located at premises with ~~class a Class “B” or class “C” beer permits~~ Class “E” retail alcohol license.

(1) A registered amusement device at a location for which only a ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123 may only be relocated to a location for which a ~~class “A,” class “B,” class Class “C,” special class Class “C,” or~~

~~class Class “D,” liquor~~ or Class “F” retail alcohol license has been issued and shall not be transferred, assigned, sold or leased to another person for which only a ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license has been issued pursuant to Iowa Code chapter 123.

(2) If ownership of the location changes, the ~~class Class “B” or class “C” beer permit~~ Class “E” retail alcohol license does not lapse and the registered amusement device is not removed from the location, the device may remain at the location.

ITEM 15. Amend rule 481—105.7(99B) as follows:

**481—105.7(99B) Violations.** Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B may result in the following:

1. No change.
2. Suspension or revocation of a ~~wine or beer permit or of a liquor~~ retail alcohol license may result under the provisions of Iowa Code chapter 123.
3. to 7. No change.

ITEM 16. Amend subrule 105.9(1) as follows:

**105.9(1)** The department may revoke, suspend, or deny a registration issued pursuant to Iowa Code section ~~99B.10A~~ 99B.56 for cause following 30 days’ written notice delivered by certified mail, return receipt requested, or by personal service and an opportunity for hearing pursuant to 481—105.8(10A,99B).

ITEM 17. Amend paragraph **105.11(2)“a”** as follows:

a. The location of the device when placed in operation is not a premises with a Class “A,” Class “B,” Class “C,” special Class “C,” ~~or Class “D,” liquor control~~ or Class “F” retail alcohol license.

ITEM 18. Amend rule 481—105.12(10A,99B) as follows:

**481—105.12(10A,99B) Suspension or revocation of a registration.** If a registrant or the person responsible for the amusement device violates the law, including Iowa Code chapter 99B, 481—Chapter 104, this chapter, or any other laws or administrative rules, the registrant’s registration may be suspended or revoked.

Examples of violations of law or rules include: awarding cash prizes, redeeming tokens or tickets for more than \$50 of merchandise in a transaction, allowing a person younger than 21 years of age to use a registered amusement device, moving an amusement device without updating its registration to the new location, allowing an amusement device in a location without the appropriate ~~liquor control~~ retail alcohol license, and failing to file an annual verification of device location.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/5/23.